

## The Act

# FISCAL RESPONSIBILITY ACT, 2007

## 2007 ACT No. 31

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*An Act to provide for prudent management of the Nation's Resources, ensure Long-Term Macro-Economic stability of the National Economy, secure greater accountability and transparency in Fiscal operations within the Medium Term Fiscal Policy Framework, and the establishment of the Fiscal Responsibility Commission to ensure the promotion and enforcement of the Nation's Economic objectives; and for related matters.*

### Commencement

*30<sup>th</sup> Day of July 2007*

ENACTED by the National Assembly of the Federal Republic of Nigeria:

### PART 1 – ESTABLISHMENT, FUNCTIONS AND POWERS OF THE FISCAL RESPONSIBILITY COMMISSION

1. Establishment of the Commission
  - 1) There shall be established, a body to be known as the Fiscal Responsibility Commission (in this Act referred to as “the Commission”)
  - 2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
2. Responsibility, Powers and Functions of the Commission
  - 1) For the purpose of performing its functions under the Act, the Commission shall have power to:
    - i. compel any person or government institution to disclose information relating to public revenues and expenditure; and
    - ii. cause an investigation into whether any person has violated any provisions of this Act.
  - 2) If the Commission is satisfied that such a person has committed any punishable offence under this Act violated any provisions of this Act, the

Commission shall forward a report of the investigation to the Attorney-General of the Federation for the possible prosecution.

### 3. Functions of the Commission

#### 1) The Commission shall:

- a. Monitor and enforce the provisions of this Act and by so doing , promote the economic objectives contained in section 16 of the Constitution;
- b. Disseminate such standard practices including international good practice that will result in greater efficiency in the allocation and management of public expenditure, revenue collection, debt control and transparency in fiscal matters;
- c. Undertake fiscal and financial studies, analysis and diagnosis and disseminate the result to the general public;
- d. Make rules for carrying out its functions under the Act; and
- e. Perform any other function consistent with the promotion of the objectives of this Act.

2) The Commission shall be independent in the performance of its functions.

3) The provisions of Public Protection Act shall apply to the members of the Commission in discharge of their functions under this Act.

### 4. Establishment of a Fund fro the Commission

1) The Commission shall establish and maintain a Fund from which shall be defrayed all expenditure incurred by the Commission.

2) There shall be credited to the Fund established pursuant to subsection (1) of this section, the budgetary allocation from the Federal Government and grants from other sources.

### 5. Composition of the Commission

#### 1) The Commission shall consist of:

- a. A chairman, who shall be the Chief Executive and accounting officer of the Commission;
- b. One member representing:
  - i. The organised private sector,
  - ii. Civil Society engaged in causes relating to probity, transparency and good governance,
  - iii. Organised labour
- c. A representative of the Federal Ministry of Finance of a level not below the rank of a Director; and

- d. One member to represent each of the following six geographical zones of the country, that is: North-Central, North-East, North-West, South-East, South-West, and South-South.
- 2) All members of the Commission shall be persons of proven integrity and must possess appropriate qualifications with not less than 10 years cognate post qualification experience.
- 3) The Chairman and other members of the Commission other than ex-officio members shall be appointed by the President subject to confirmation by the Senate.
- 4) The Chairman and members of representing the six geographical zones shall be full time members.

#### 6. Tenure of Office

The Chairman and members of the Commission shall hold office for a single term of 5 years.

#### 7. Powers of the Commission

The Commission shall have power to:

- 1) Formulate and provide general policy guideline for the discharge of the functions of the Commission;
- 2) Superintend the implementation of the policies of the Commission
- 3) Appoint for the Commission, such numbers of employees as may in the opinion of the Commission be expedient and necessary for the proper and efficient performance of the functions of the Commission;
- 4) Determine the terms and conditions of service in the Commission, including disciplinary measures for the employees of the Commission;
- 5) Fix the remuneration, allowances and benefits of the employees of the Commission as approved by the Salaries and Wages Commission;
- 6) Do other things, which in its opinion are necessary to ensure the efficient performance of the functions of the Commission ; and
- 7) Regulate its proceeding and make standing orders with respect to the holding of its meetings, notices to be given, the keeping of minutes of its proceedings and such other matters as the Commission may, from time to time determine.

#### 8. Cessation of membership

- 1) Notwithstanding the provision of section 5 (2) of this Act, a member of the Commission shall cease to hold office if:

- a. He becomes bankrupt or makes a compromise with his creditors;
    - b. He is convicted of a felony or any offence involving dishonesty, corruption or fraud;
    - c. He becomes incapable of carrying out the functions of his office either by reason of infirmity of mind or body;
    - d. The President is satisfied that it is not in the interest of the Council or the interest of the public that the member should continue in office and the President removes him from office;
    - e. He has been found guilty of violation of the code of conduct or serious misconduct in relation to his duties;
    - f. He resigns his appointment by a notice under his hand, addressed to the President; or
    - g. In the case of a person becomes a member by virtue of the office he occupies, he ceases to hold such office for whatever reason.
  - 2) Where a vacancy occurs in the membership of the Commission, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of the predecessor, provided that the successor shall represent the same interest as his predecessor.
9. Emoluments etc of members
- 1) There shall be paid to the Chairman of the Commission such salaries allowances and benefits as the Revenue Mobilisation Allocation and Fiscal Commission may from time to time approve.
  - 2) There shall be paid to other members of the Commission such sitting allowance and benefits as may be determined by the Revenue Mobilisation and Fiscal Commission may, from time to time, approve.
10. Submission of annual report to the Commission – The Commission shall prepare and submit to the National Assembly not later than 30<sup>th</sup> June in each financial year; a report of its activities including all cases of contravention investigated during the preceding financial year, and shall include in the report a copy of its audited accounts for the preceding financial year.

## **PART II – THE MEDIUM TERM EXPENDITURE FRAMEWORK**

### 11. Medium Term Expenditure

- 1) The Federal Government after consultation with the states shall –

- a. Not later than six months from the commencement of this Act, cause to be prepared and laid before the National Assembly, for their consideration a Medium-Term Expenditure Framework for the next three financial years; and
  - b. Thereafter, not later than four months before commencement of the next financial year, cause to be prepared a medium - term expenditure Framework for the next three financial years.
- 2) The framework so laid shall be considered for approval with such modifications, if any, as the National Assembly finds appropriate by a resolution of each House of the National Assembly.
- 3) The medium-term expenditure framework shall contain:
  - a. A Macro-Economic Framework setting out the macro-economic projections, for the next three financial years, the underlying assumptions for those projections and an evaluation and analysis of the macroeconomic projections for the preceding three financial years;
  - b. A Fiscal Strategy Paper setting out:
    - i. The Federal Government's medium term financial objectives,
    - ii. The policies of the Federal Government for the medium-term relating to taxation, recurrent (non-debt) expenditure debt expenditure, capital expenditure, borrowings and other liabilities, lending and investment,
    - iii. The strategic economic, social and developmental priorities of the Federal Government for the next three financial years,
    - iv. An explanation of how the financial objectives, strategic, economic, social and developmental priorities and fiscal measures set out pursuant to sub-paragraph (i), (ii) and (iii) of the paragraph relating to the economic objectives set out in section 16 of the constitution.
  - c. An expenditure and revenue framework setting out:
    - i. Estimates of aggregate revenues for the Federation for each financial year, based on the predetermined Commodity Reference Price adopted and tax revenue projection,
    - ii. Aggregate expenditure projection for the Federation for each financial year in the next three financial years,

- iii. Aggregate tax expenditure floor for the Federation for each financial year in the next three financial years:

Provided that, the estimates and expenditures provided under paragraph (D) of this subsection shall be:

- i. Based on reliable and consistent data certified in accordance with section 13 (2) (b) of this Act;
- ii. Targeted at achieving the macro-economic projection set out in subsection (2) (a) of this section;
- iii. Consistent with and derive from the underlying assumptions contained in the Macro-economic framework, the objectives, policies, strategic priorities and explanations in the Fiscal Strategy paper;
- d. A consolidated Debt Statement setting out and describing the fiscal significance of the debt liability of the Federal Government and measures to reduce any such liability; and
- e. A statement describing the nature and fiscal significance of contingent liabilities and quasi-fiscal activities and measures to offset the crystallization of such liabilities.

## 12. Aggregate expenditure ceiling

The estimates of:

1. Aggregate expenditure and the aggregate amount appropriated by the National Assembly for each financial year shall not be more than the estimated aggregate revenue plus a deficit, not exceeding three per cent of the estimated Gross Domestic Product or any sustainable percentage as may be determined by the national Assembly for each financial year.
2. Aggregate expenditure for the financial year may exceed the ceiling imposed by the provisions of subsection (1) of this section, if in the opinion of the president there is a clear and present threat to national security or sovereignty of the Federal Republic of Nigeria.

## 13. Preparation of the Medium Term Expenditure Framework

- 1) The Minister shall be responsible for the preparation of the Medium term expenditure framework.
- 2) In preparing the draft Medium-term expenditure framework, the Minister:
  - a. May hold public consultation, on the Macro-economic framework, the fiscal Strategy Paper, the Revenue and Expenditure Framework, the Strategic, economic, social and developmental priorities of government, and such other matters as the Minister deems necessary:

Provided that such consultations shall be open to the public, the press and any citizens or authorized representatives of any organization, group of citizens, who may attend and be heard on any subject matter properly in view;

- b. Shall seek inputs from the:
  - i. National Planning Commission,
  - ii. Joint Planning Commission
  - iii. National Commission on Developmental Planning
  - iv. National Economic Commission
  - v. National Assembly
  - vi. Central Bank of Nigeria
  - vii. National Bureau of Statistics
  - viii. Revenue Mobilisation Allocation and Fiscal Commission,
  - ix. Any other relevant statutory body as the Minister may determine; and
- c. Shall consider and reflect as may be deemed appropriate the input of the bodies and persons referred to in subsection (a) and (b) of this section.

14. Time Limit for presentation of Medium term Expenditure Framework to Federal Executive Council

- 1) The Minister shall before the end of the second quarter of each financial year, present the Medium-Term Expenditure Framework to the Federal Executive Council for consideration and endorsement.
- 2) The Medium –Term Expenditure Framework as endorsed by the Federal Executive Council shall take effect upon approval by a resolution of each of the National Assembly.

15. Publication of Medium Term Expenditure Framework in the Gazette

The Medium –Term Expenditure Framework as approved by the National Assembly shall be published in the Gazette.

16. Adjustments to the Medium-Term Expenditure Framework

- 1) Subject to subsection (2) of this section, the President may cause adjustments to be made to a medium term expenditure framework
- 2) Any adjustment to Medium term expenditure framework shall be limited to:
  - a. The correction of manifest error; and
  - b. Changes in the fiscal indicators, which in the opinion of the President are significant.

17. Assistance to States and Local Governments –States and Local Governments which so desire shall be assisted by the Federal Government to manage their fiscal affairs within the medium term framework.

### **PART III – THE ANNUAL BUDGET**

18. Annual Budget to be derived from Medium Term Expenditure Framework – Notwithstanding anything to the contrary contained in this Act any law, the Medium term Expenditure Framework shall:
- 1) Be the basis for the preparation of the estimates of revenue and expenditure required to be prepared and laid before the National Assembly under section 81 (1) of Constitution.
  - 2) The sectoral and compositional distribution of the estimates of the expenditure referred to in subsection (1) of this section shall be consistent with the medium term developmental priorities set out in the Medium Term expenditure Framework.
19. Annual Budget to be accompanied by certain documents – The estimates of revenue and expenditure (in the Act referred to as the “Annual Budget”) shall be accompanied by:
- a. A copy of the underlying revenue and expenditure profile for the next two years;
  - b. A report setting out actual and budgeted revenue and expenditure and detailed analysis of the performance of the budget for the 18 months up to June of the preceding financial year;
  - c. A revenue framework broken down into monthly collection targets prepared on the basis of the predetermined Reference Commodity Price as contained in Medium-Term Expenditure Framework;
  - d. Measures on cost, cost control and evaluation of result of programmes financed with budgetary resources;
  - e. A Fiscal target appendix derived from the underlying Medium- Term Expenditure Framework setting out the following targets for that financial year:
    - i. Target inflation rate,
    - ii. Target fiscal account balances
    - iii. Any other development target deemed appropriate; and

- f. A Fiscal Risk Appendix evaluating the fiscal and other related risks to the annual budget and specifying measures to be taken to offset the occurrence such risks.

#### 20. Application of Part III to States and Local Governments

In preparing their annual budget, States and Local Governments may adopt the provisions of this Part with such modification as may be appropriate and necessary.

### **PART IV – BUDGETARY PLANNING OF CORPORATIONS AND OTHER RELATED AGENCIES**

#### 21. Preparation of estimates of revenue and expenditures by corporations etc

- 1) The Government corporations and agencies and government owned companies listed in the Schedule to this Act (in this Act referred to as “the Corporations”) shall, not later than 6 months from the commencement of this Act and every three financial years thereafter and not later than the end of the second quarter of every year, cause to be prepared and submitted to the Minister their Schedule estimates of revenue and expenditure for the next three financial years.
- 2) Each of the bodies referred to in subsection (1) of this section shall submit to the Minister not later than the end of August in each financial year:
  - a. An annual budget derived from the estimates submitted in pursuance of subsection (1) of this section; and
  - b. Projected operating surplus which shall be prepared in line with acceptable accounting practices
- 3) The Minister shall cause the estimates submitted in pursuance of subsection (2) of this section to be attached as part of the Appropriation Bill to be submitted to the National Assembly.

#### 22. Operating surplus and general reserve fund

- 1) Notwithstanding the provisions of any written law governing the corporation, each corporation shall establish a general reserve fund and shall allocate thereto at the end of each financial year, one-fifth of its operating surplus for the year.
- 2) The balance of the operating surplus shall be paid into the Consolidate Revenue Fund of the Federal Government not later than one month following the statutory deadline for publishing each corporation’s accounts.

#### 23. Classification of corporation operating surplus

- 1) The corporation’s surplus be classified as a Federal Treasury Revenue

- 2) Where a corporation's result is a deficit, the deficit shall be classified as the corporation's loss for the fiscal year
- 3) Each corporation shall, not later than three months after the end of its financial year, cause to be prepared and published its audited financial reports in accordance with such rules as may be prescribed from time to time.

#### 24. Cessation of Application

The provisions of sections 20, 21 and 22 shall cease to apply to any of the corporations from the date of privatization.

## **PART V – BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS**

#### 25. Annual Cash Plan

- 1) The Federal Government shall cause to be drawn up in each financial year, an Annual cash Plan which shall be prepared by the office of the Accountant- General of the Federation.
- 2) The Annual Cash Plan shall be prepared in advance of the financial year setting out projected monthly cash flows and shall be revised periodically to reflect actual cash flows.

#### 26. Disbursement Schedule

The Minister, shall within 30 days of the enactment of the Appropriation Act, prepare and publish a disbursement Schedule derived from the Annual Cash Plan for the purpose of implementing the Appropriation Act.

#### 27. Power of Minister to approve virement

- 1) The sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Act.
- 2) Without prejudice to subsection (1) of this section, the Ministry may in exceptional circumstances and in the overall public interest, recommend for the approval of the National Assembly virements from sub-heads of account, without exceeding the amount appropriated to such head of account.

#### 28. Power to restrict further commitments

- 1) Where by the end of three months, after the enactment of the Appropriation Act, the Minister determines that the targeted revenues may be insufficient to fund the heads of expenditure in the Appropriation Act, the Minister shall, within the next 30 days of such determination, take appropriate measures to restrict further commitments and financial operation according to the criteria set in the fiscal Risk Appendix.

- 2) Where the target revenue are re-established, either in part or in full, the appropriations for which further commitments were restricted shall be restored proportionately .
- 3) The provisions of the subsections (1) and (2) of this section shall not apply to statutory or constitutional expenditures.

29. Restriction on the grant of tax relief

1) Any proposed tax expenditure shall be accompanied by an evaluation of its budgetary and financial implications in the year it becomes effective and in the three subsequent years, and shall only be approved by the Minister, if it does not adversely impair the revenue estimates in the annual budget or if it is accompanied by countervailing measure during the period mentioned in this subsection through revenue increasing measures such as tax rate raises and expansion of the tax base.

- 2) The provisions of this section shall not apply to:
  - a. Changes in the rates of the taxes mentioned in section 163 of the Constitution; and
  - b. Debt cancellation in an amount lower than the cost of collection.

30. Responsibility of the budget office to monitor and report on implementation

- 1) The Minister of Finance, through the Budget Office of the Federation, shall monitor and evaluate the implementation of the Annual Budget, assess the attainment of fiscal targets and report thereon on a quarterly basis to the Fiscal Responsibility Council and the Joint Finance Committee of the national Assembly.
- 2) The Minister of Finance shall, cause the report prepared pursuant to subsection (1) of this section to be published in the mass and electronic and on Ministry of Finance website, not later than 30 days after the end of each quarter.

31. Application of Part V to States and Local Governments - In the implementing their annual budgets, States and Local Governments may adopt the provisions of this part with such modifications as may be appropriate and necessary.

## **PART VI – PUBLIC REVENUE**

32. Forecast and Collection of Public Revenue

Any fund due to the Federation from any tier of government may be set off by the federation on or towards payment or remittance of any sum due to that tier of government from the Federation.

33. Revenue Forecast

The Executive Arm of the Federal Government shall, at least 30 days before the deadline for the submission of its budget proposals place at the disposal of the

National Assembly, the revenue estimates for the following year, including the net current revenue and the respective memorandum items,

34. Executive to breakdown estimated revenue

Estimated revenue shall be broken down by the Executive Arm of Government into Monthly collection targets, including, where applicable, a separate description of measures to combat tax fraud and evasion.

## **PART VII – SAVINGS AND ASSET MANAGEMENT**

35. Penalty for non compliance with Part VI

- 1) Where the reference commodity price rise above the predetermined level, the resulting excess proceeds shall be saved in accordance with the provisions of subsection (2) of this section.
- 2) The saving of each Government in the Federation in pursuance to sub section (1) of this section shall be deposited in a separate account which shall form part of the respective Governments Consolidated Revenue Fund to be maintained at the Central bank of Nigeria by each Government.
- 3) The central Bank of Nigeria shall, in consultation with the Minister of Finance, the State Commissioners of Finance, and Local Government Treasurers, invest, for and on behalf of the Governments in the Federation, the saving of each Government and such investment can be undertaken in a consolidated manner, provided that, the shares of each Government and income due to them from the investment are clearly identified.
- 4) The Central Bank of Nigeria in the discharge of its obligation under subsection (3) of this section shall, observe the limits and conditions imposed by safety and prudential considerations and the need to maintain macro-economic stability and such safety and prudential conditions are to be agreed upon with the Minister of Finance, State Commissioners of Finance and Local Government Treasurers.
- 5) No Government in the federation shall have access to the savings made in pursuance to subsection (2) of this section, unless the reference commodity price falls below the predetermined level fro a period of three consecutive months.
- 6) The augmentation referred to in sub section (5) of this section shall be limited to such sums that will bring the revenue of government to the level contained in its budget estimates.
- 7) Notwithstanding the provisions of subsections (5) and (6) of this section and subject to agreement by Federal and State Governments in the Federation, a proportion of the savings may be appropriated in the following year for the capital projects and programmes.

## **PART VIII - PUBLIC EXPENDITURES**

### **36. Conditions for Increasing Government Expenditure**

1) The creation, expansion or improvement in government action which result in an expenditure increase shall be accompanied by:

- a. An estimate of the budgetary or financial impact in the year it becomes effective and in the two subsequent years; and
- b. A statement by the person requesting for the expenditure, stating that the increase is consistent with the Appropriation Act and the Medium-term Expenditure Framework

2) The provisions of this section shall not apply to expenditures deemed inconsequential and shall apply to State and Local Government only to the extent to which they have adopted these provisions.

### **37. Conditions for increasing personnel expenditure**

The granting of any advantage or increase of remuneration, the creation of posts or allocation of career structures and admission of personnel on any account by bodies and entities including foundations established and maintained by the federal Government shall only be effected if, there is a prior budgetary allocation sufficient to cover the estimated expenditure.

### **38. All contracts to comply with Rules and guidelines.**

All contracts with regards to the execution of annual budget; shall comply with the rules and guidelines on:

- a. Procurement and ward of contracts; and
- b. Due process and certification of contract.

### **39. Effect of Violation of Public expenditure rules**

Any violation of the requirements in sections 36, 37 and 38 shall be an offence.

### **40. Application of Part VIII to States and Local Governments**

In incurring public expenditures, States and Local Governments may adopt the provisions of this Part with such modifications as may be appropriate and necessary.

## **PART IX – DEBT AND INDEBTEDNESS**

### **41. Framework for debt management**

1) The framework for debt management during the financial year shall be based on the following rules:

- a. Government at all tiers shall only borrow for capital expenditure and human development, provided that, such borrowing shall be on concessional terms with low interest rate and with a reasonable long amortization period subject to the approval of the appropriate legislative body where the necessary; and

- b. Government shall ensure that the level of public debt as a proportion of national income is held at a sustainable level as prescribed by the national Assembly from time to time on the advice of the Minister.
      - 2) Notwithstanding the provisions of subsection 1 (a) of this section and subject to the approval of this section and subject to the approval of the National Assembly, the Federal Government may borrow from the capital market.
      - 3) Non-compliance with the provisions of this section shall make the action taken an offence.
42. Limits on consolidated debt of federal, State and Local Governments
  - 1) The President shall within 90 days from the commencement of this Act and with advise from the Minister of Finance subject to approval of National Assembly, set overall limits for the amounts of consolidated debt of the federal, State Governments pursuant to the provisions of items 7 and 50 of Part I of the Second Schedule of the constitution and the limits and conditions approved by the National Assembly, shall be consistent with the rules set in this Act and with the fiscal policy objectives in the Medium term fiscal Framework.
  - 2) Outstanding judgement debts not paid shall be considered part of the consolidated debts for the purpose of application of the respective limits set in pursuance of this section.
  - 3) For the purpose of verifying compliance with the limits specified pursuant to this section, the Commission shall at the end of each quarter, determine the amount of the Consolidated debt of each tier of government.
  - 4) The Commission shall publish, on a quarterly basis, a list of the Governments in the federation that have exceeded the limits of consolidated debt, indicating the amount by which the limit was exceeded.
  - 5) Where at the end of any quarter, the consolidated debt of the Federal, State or Local Government exceeds the respective limits, it shall be brought within the limit, not later than the end of the three subsequent quarters with a minimum of 25 per cent reduction in the first quarter.
  - 6) Violators of the limits specified pursuant to this section shall:
    - a. Be prohibited from borrowing from internal or external sources, except for the refinancing of existing debts; and
    - b. Bring the debt within the established limited by restricting funding commitments accordingly.
  - 7) Where non-compliance with the limit specified pursuant to this section persist after the time limited by subsection (5) of this section, the affected tier of Government shall also be prohibited from receiving grants from any other Government in the Federation.
  - 8) Whenever the fundamentals of the proposals referred to in this section are changed due to economic instability or change in monetary or exchange policies, the President shall submit to the National Assembly a request for a review of the current limits.
43. Services of external debt
  - 1) Servicing of external debts shall be the direct responsibility of the Government that incurred the debt.

2) The cost of servicing Federal Government guaranteed loans shall be deducted at source from the share of the debtor Government from the Federation Account.

## **PART X - BORROWING**

### **44. Conditions of Borrowing and Verification of compliance limits**

1) Any Government in the Federation or its agencies and corporations desirous of borrowing shall, specify the purpose for which the borrowing is intended and present a cost-benefit analysis, detailing the economic and social benefits of the purpose to which the intended borrowing is to be applied.

2) Without prejudice to subsection (1) of this section, each borrowing shall comply with the following conditions:

a. The existence of prior authorization in the Appropriation or other Act or Law for the purpose for which the borrowing is to be utilized; and

b. The proceeds of such borrowing shall solely be applied towards long-term capital expenditures.

3) Nothing in this section shall be construed to authorize borrowing in excess of the limits set out in section 44 of this Act.

4) The Commission shall verify on a quarterly basis, compliance with the limits and conditions for borrowing by each Government in the Federation.

5) Without prejudice to the specific responsibilities of the National Assembly and Central Bank of Nigeria, the Debt Management Office shall maintain comprehensive, reliable and current electronic database of internal and external public debts, guaranteeing public access to the information.

### **45. Lending by Financial Institutions**

1) All banks and financial institutions shall request and obtain proof of compliance with the provisions of this Part before lending to any Government in the Federation.

2) Lending by banks and financial institutions in contravention of this Part shall be unlawful.

### **46. Prohibition against CBN in its relation with Government agencies and Parastatals**

1) The Central Bank of Nigeria in its relation with Government agencies and Parastatals shall be subject to the following prohibitions:

a. Purchasing fresh issues of government securities on the date of its primary issue in the market, except in the circumstances under subsection (2) of this section;

b. Exchanging on a temporary basis, the debt securities of any Government in the Federation for Federal public debt securities and forward purchase or sale of such securities when the final result is similar to an exchange; or

c. Granting guarantees on behalf of any Government in the Federation.

2) The Central Bank of Nigeria may only underwrite securities issued by the Federal Government, which are rolled over to refinance maturing securities.

3) The underwriting permitted under subsection (2) of this section shall be offset through a public auction at market determined rate.

#### 47. Power of the Minister to grant guarantees

1) Subject to the provisions of this Part, the Minister may with the approval of the Federal Executive Council, grant guarantees on behalf of any Government in the Federation.

2) Any guarantee granted by the Minister shall be conditional upon the provision of a counter guarantee in an amount equal to or higher than the guarantee obligation, provided that there are no overdue obligations from the requesting Government in the Federation to the guarantor and its controlled corporations and such guarantee shall also be on compliance with the following;

a. Counter-guarantee shall only be accepted from State or Local Governments; and

b. The counter-guarantee required by the Federal Government from State or Local Government or by State or Local Government, may consist in the appropriation of tax revenue directly collected and resulting from statutory transfers and the guarantor shall be authorised to retain such revenue and use the respective amount to repay overdue debts.

3) In the case of foreign currency borrowing, Federal Government guarantee shall be a requirement and no State, Local Government or Federal Agency shall, on its own borrow externally.

4) Any guarantee provided in excess of the debts limits set pursuant to section 44(1) of this Act shall be an offence.

## **PART XI - TRANSPARENCY AND ACCOUNTABILITY**

#### 48. Fiscal Transparency

1) The Federal Government shall ensure that its fiscal and financial affairs are conducted in a transparent manner and accordingly ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures and their implications for its finances.

2) The National Assembly shall ensure transparency during the preparation and discussion of the Medium-Term Expenditure Framework, Annual Budget and the Appropriation Bill.

#### 49. Publication of Audited accounts

1) The federal Government shall publish their audited accounts not later than six months following the end of the financial year.

2) Federal Government shall, not later than two years following the commencement of this Act and thereafter, not later than 7 months following the end of each financial year, consolidate and publish in the mass media, its audited accounts for the previous year.

3) The publication of general standards for the consolidation of public accounts shall be the responsibility of the office of the Accountant-General of the Federation.

#### 50. Publication of a summarised report on budget execution

The Federal Government through its budget within 30 days after the end of each quarter, publish a summarised report on budget execution in such form as may be prescribed by the Fiscal Responsibility Commission and not later than 6 months after the end of the financial year, a consolidated budget execution report showing implementation against physical and financial performance targets shall be published by the Minister of Finance for submission to the National Assembly and disseminate to the public.

## **PART XII – ENFORCEMENT**

### **51. Enforcement**

A person shall have legal capacity to enforce the provision of this Act by obtaining prerogative orders or other remedies at the Federal High Court, without having to show any special particular interest.

## **PART XIII – MISCELLANEOUS PROVISIONS**

52. Government securities, provided that, they are duly listed on the Stock Exchange, may be offered as collateral to guarantee loans or other financial transactions under the law for their economic values as defined by the Ministry.

53. The process derived from the sale or transfer of public properties and rights over public assets shall not be used to finance recurrent and debt expenditure, provided that, such proceeds may be used to liquidate existing liabilities directly charged against such properties or assets.

54. The Federal Government may provide technical and financial assistance to States and Local Government that adopt similar fiscal responsibility legislation along the same line in this Act for the modernization of their respective tax, financial and asset administration

55. The President shall, in addition to any other power conferred on him under this Act, make regulations generally for the purposes of carrying into effect the provisions of the Act.

## **PART XIV – INTERPRETATION**

### **56. IN THIS Act –**

“Appropriation Act” means an Act or law passed by the National or State Assembly or Local Government authorizing spending from the Consolidate Revenue Fund and includes a Supplementary Appropriation Act or Law;

“Appropriation Bill” means the Bill referred to in sections 59 of the Constitution of the Federal Republic of Nigeria, 1999;

“Arms of Government” means the Executive, Legislature and Judiciary;

“Borrowing” means any financial obligation arising from:

- a. any loan including principal, interest, fees of such loans;
- b. the deferred payment for property, goods or services;
- c. bonds, debentures, notes or similar instruments;
- d. letters of credit and reimbursement obligations respect thereto;
- e. trade or bankers’ acceptance;
- f. capitalised amount of obligations under leases entered into primarily as a method of raising financing or of financing the acquisition of the asset leased;
- g. agreements providing for swaps, selling rates, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest or the convertibility of currency and
- h. a conditional sale agreements, capital lease or other little retention agreement;

“Budget Call Circular” means a circular:

- i. requesting the submissions in a prescribed form, of the revenue and expenditure estimates of ministries, extra-ministerial departments, and other executing agencies of Government for the next financial year; and
- ii. giving details guidelines and instructions on the preparation of the estimates and expenditure in a manner consistent with the medium term developmental priorities set out in the Medium-Term Expenditure Framework;

“Capital Expenditure” means spending on an asset that last for more than one financial year and expenses associated with the acquisition of such assets;

“Concessional terms” means the terms of the loan must be at an interest rate not exceeding 3 percent;

“Consolidated debt” means the aggregate of the outstanding financial obligations of Government including those of its Parastatals and agencies at any point in time arising from:

- i. borrowing money including principal, interest, fees of such borrowed money,
- ii. the deferred payment for property, goods or services,
- iii. bonds, debentures, note or similar instruments,
- iv. letters of credit and reimbursement obligations with respect thereto,
- v. Guarantees,
- vi. Trade or banker’s acceptances,

- vii. Capitalised amounts of obligations under leases entered into primarily as a method of raising financing or of financing the acquisition of the asset leased'
- viii. Agreements providing for swaps, ceiling rates, ceiling and floor rates, contingent participation or other hedging mechanisms with respect to the payment of interest or the convertibility of currency and
- ix. A conditional sale agreement, capital lease or other little retention agreement

“Cost-benefit-analysis” means an analysis that compares the cost undertaking a service, project or programme with the benefits that citizens are likely to derive from it;

“Fiscal Risk Appendix” An explanatory attachment that provides a set of indicator that can be used to measure local fiscal risk;

“Fiscal Risk Target” provides numerical target for each risk indicator with which a fiscal entity will be considered fiscally healthy;

“Fiscal year” has the meaning ascribed by the constitution;

“Fiscal Policy Objectives” means the goals set by Government for attainment of set targets for a given period;

“Government Owned Company” means a statutory corporation, Government agency and a company in which Government has controlling interest;

“Medium-Term Expenditure Framework” means the document referred to and the content of which is prescribed in section 1 of this Act;

“Minister” means the Minister charged with the responsibility for finance;

“Net Debt” means the Consolidate Debt less what is owed to Government, its Parastatals and agencies at any point in time;

“President” means the President of the federal Republic of Nigeria;

“Public Debt Securities” means public debt represented by securities issued by the Federal Government (including those of the Central Bank of Nigeria), the State and Local Governments;

“Public Expenditure” means outlays other than those resulting into debt reduction;

“Public revenue” all moneys received by a Government in the Federation:

“Quarter” means one quarter of a financial year and quarterly shall be construed accordingly;

“Recurrent Expenditure” means normal overhead and administrative expenses and personnel cost including salaries, emoluments and other benefits of employees;

“Reference Commodity Price” means such price as may be determined by the President subject to the approval of the National Assembly;

“Refinancing of debt securities” means issuance of securities to repay the existing debt;

“State financial institution” means any financial institution in which one or more state governments have controlling interests;

“State” shall be construed to include the Federal Capital Territory;

“Tax expenditure projections” means the projected amount expected to be utilized in the granting of tax relief or tax holiday;

“Tax revenue projections” means the projected collectible tax or revenue within a particular planning period; and

“Tiers of Government” means the Federal, State and Local Governments;

#### 57. Citation

This Act may be cited as the Fiscal Responsibility Act, 2007.

## **SCHEDULE**

## **Section 21**

### **LIST OF CORPORATIONS, AGENCIES AND GOVERNMENT-OWNED COMPANIES**

- 1) Nigerian National Petroleum Corporation
- 2) Nigeria Deposit insurance Corporation
- 3) Bureau of Public Enterprise
- 4) National Agency for Science and Engineering Infrastructure
- 5) Nigerian Social Insurance Trust Fund

- 6) Corporate Affairs Commission
- 7) National Clearing and Forwarding Agency
- 8) Nigerian Unity Line
- 9) Nigerian Airspace Management Agency
- 10) Nigerian Shippers Council
- 11) National Maritime Authority
- 12) Raw Material Research and Development Council
- 13) Nigerian Civil Aviation Authority
- 14) National Sugar Development Council
- 15) Nigerian Postal Service
- 16) Nigerian Ports Authority
- 17) Federal Airport Authority of Nigeria
- 18) Nigerian Mining Corporation
- 19) Nigeria Re-insurance
- 20) Nigerdock Nigeria PLC
- 21) Securities and Exchange Commission
- 22) National Insurance Corporation of Nigeria
- 23) Nigeria Re-insurance Corporation
- 24) Nigerian Telecommunication
- 25) National Automotive Council
- 26) Nigerian Tourism Development
- 27) National Communication Commission
- 28) National Agency for Food & Drug Administration & Control
- 29) Nigerian Customs Service
- 30) Federal Inland Revenue Service
- 31) Central Bank of Nigeria

Any other corporation, agency or government owned company that may be included by Minister through a local notice.

## **EXPLANATORY MEMORANDUM**

This Act, among other things, establishes the Fiscal responsibility Commission charged with the responsibility of monitoring and enforcing the provisions of this Act to ensure greater accountability, transparency and prudence in the management of the Nation's resources by the Federal Government, Government Owned corporations or companies

and agencies as provided for under sections 13, 16 (1) and (2) and item 60 of the Exclusive Legislative List as wet out in Part 1 of the Second Schedule to the 1999 Constitution of the Federal republic of Nigeria and provides incentives to encourage States and Local Governments pass similar fiscal responsibility legislation.

I certify, in accordance with Section 2 (1) of the Acts Authentication Act, CAP. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by the both Houses of the National Assembly.

NASIRU IBRAHIM ARAB

Clerk of the National Assembly

19<sup>th</sup> day of July 2007